

Message Text

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C O N F I D E N T I A L MEXICO 02961

E.O. 11652: GDS

TAGS: EINV, EIND, MX

SUBJECT: GOM INTERNAL DEBATE ABOUT FOREIGN INVESTMENT
REGULATION

REF: REPORT XDGS-2 OF 9 FEB. 1978

1. ANOTHER LAWYER OF A DIFFERENT MAJOR LAW FIRM HERE HAS
CONFIRMED ESSENCE OF REFERENCE. HE HAS TOLD US THAT THE
GOM IS SOLICITING VIEWS OF LAWYERS HANDLING LEGAL MATTERS
FOR FOREIGN FIRMS ABOUT SUGGESTIONS FOR MODIFICATIONS NOT
ONLY IN THE FOREIGN INVESTMENT LAW BUT FOR THE MORE
RECENT LAW ON PATENTS AND TRADEMARKS AS WELL.

2. COMMENT. IN THE LAST FEW WEEKS THERE HAS BEEN A
PLETHORA OF STATEMENTS FROM GOM OFFICIALS AND BUSINESS
REPRESENTATIVES REQUESTING (PLEADING MIGHT BE A BETTER
WORD) ADDITIONAL INVESTMENT ON PART OF THE BUSINESS
COMMUNITY. JUST YESTERDAY BOTH WARMAN AND LUIS GUZMAN
DE ALBA, PRESIDENT OF THE CONFEDERATION OF INDUSTRIAL
CHAMBERS, ASKED FOR FOREIGN INVESTMENT IN AREAS WHICH
WERE PREVIOUSLY CLOSED TO NEW INVESTMENT, SUCH AS STEEL,
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FOOD PRODUCTS, AND CEMENT, AND ON WHICH "IS BASED THE
FUTURE DEVELOPMENT OF THE COUNTRY". GUZMAN DE ALBA ALSO
DESCRIBED THE LAWS GOVERNING FOREIGN INVESTMENT AND
PATENTS AND TRADEMARKS AS "LAWS WITH A HIGH DEGREE OF
ADMINISTRATIVE DISCRETION WHICH PROVOKE LEGAL INSECURITY."
THESE COMMENTS ARE INTERESTING IN THAT GENERALLY MEXICAN
BUSINESSMEN HAVE FAVORED LAWS RESTRICTING FOREIGN INVEST-

MENT BECAUSE THEY FORECLOSED COMPETITION FROM FOREIGNERS AND OPENED OPPORTUNITIES TO THEM. INTERESTINGLY ENOUGH, LESS THAN 24 HOURS LATER, VARIOUS NEWSPAPERS CHALLENGED DE ALBA'S STATEMENT ASKING WHY MEXICO NEEDS FOREIGN INVESTMENT NOW THAT IT HAS OIL.

3. WHILE ALL KINDS OF PRESSURES FROM EXTERIOR SOURCES SEEM TO BE BUILDING UP FOR MODIFICATIONS IN THE FOREIGN INVESTMENT LAW, WE ARE MUCH IMPRESSED WITH RECENT FINDINGS OF JOINT USIS/AMERICAN CHAMBER SURVEYS THAT MEXICAN PUBLIC OPINION ACROSS ALL POLITICAL STRIPES HOLDS THAT FOREIGN INVESTMENT IN MEXICO MUST BE LIMITED TO 49 PERCENT OF OWNERSHIP. THIS IS A FIRM FACT OF LIFE. AT THE SAME TIME WE ARE IMPRESSED BY THE READINESS OF POTENTIAL NEW U.S. INVESTORS, VISITING THE EMBASSY, TO ACCEPT MINORITY OWNERSHIP IN ACCORDANCE WITH MEXICAN LAW. THE PRINCIPAL PROBLEM IS WITHOUT QUESTION THE APPLICATION OF THE FOREIGN INVESTMENT LAW TO EXISTING FOREIGN INVESTMENT. FOR EXAMPLE, SEARS ROEBUCK REPORTEDLY CAN'T BUILD A NEW PARKING LOT, MUCH LESS OPEN A NEW BRANCH STORE WITHOUT FORMING A NEW MEXICAN MAJORITY-OWNED FIRM. ANDERSON CLAYTON SAID THE COMPANY COULDN'T OPEN SMALL WAREHOUSES. WHILE WE CAN'T ANTICIPATE WITH CONFIDENCE WHAT CHANGES, IF ANY, WILL COME OUT OF THE PRESENT HIGH-LEVEL REVIEW, IT SEEMS THAT MODIFICATIONS IN THE LAW WITH REGARD TO EXISTING FOREIGN INVESTMENT COULD VASTLY IMPROVE THE FOREIGN
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INVESTMENT CLIMATE IN MEXICO. END COMMENT. LUCEY

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